

Message Text

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AMEMBASSY HELSINKI
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C O R R E C T E D C O P Y (DOTE TAKE AS ORIGINAL; OTHERS

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E.O. 11652:N/A

TAGS: UNCTAD, EWWT

SUBJECT: RE-EVALUATION OF USG PARTICIPATION IN THE FIFTH
UNCTAD INTERGOVERNMENTAL PREPARATORY GROUP (IPG) ON
INTERNATIONAL MULTIMODAL TRANSPORT

1. SINCE LATE 1973, THE US HAS PARTICIPATED IN FOUR
SESSIONS OF AN UNCTAD INTERGOVERNMENTAL PREPARATORY GROUP
(IPG) WHICH HAS UNSUCCESSFULLY ATTEMPTED TO DEVELOP A DRAFT
CONVENTION ON INTERNATIONAL MULTIMODAL TRANSPORT (MT).
SUCH A CONVENTION WOULD APPLY TO THE CARRIAGE OF A
PRODUCT THAT IS TRANSPORTED BY SEVERAL DIFFERENT MEANS OF
TRANSPORT SUCH AS RAIL, ROAD, AND MARITIME. SUBSEQUENT TO
THE CONCLUSION OF THE GENERALLY UNPRODUCTIVE FOURTH IPG
(NOV. 14-25, 1977), THE USG, WITH INDUSTRY CONCURRENCE,
BELIEVES THAT OUR PARTICIPATION IN THE 5TH IPG, NOW
TENTATIVELY SCHEDULED FOR SEPT. 18-OCT. 6, 1978,
SHOULD BE CRITICALLY EXAMINED. AS PART OF THIS EXAMINATION,
THE DEPARTMENT WOULD APPRECIATE THE VIEWPOINTS OF THE HOST
GOVERNMENTS OF ACTION ADDRESSEES REGARDING THEIR ASSES-
MENTS OF THE PROSPECTS FOR FUTURE IPG'S AND THEIR REACTIONS
TO THE POSSIBILITY OF A US WITHDRAWAL. AN OVERRIDING
QUESTION IS WHETHER THE IPG IS LIKELY TO PRODUCE A
CONVENTION WHICH WILL BENEFIT THE US? THE USG HAS HAD
DOUBTS ABOUT THIS SINCE THE SECOND IPG IN 1974. THUS, IT
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IS MORE TIMELY THAN EVER TO EVALUATE WHETHER IT IS IN
THE US INTEREST TO CONTINUE IN THE IPG. POSTS MAY DRAW
UPON THE BACKGROUND INFORMATION PROVIDED IN PARAGRAPH 5
WHEN DISCUSSING THE IPG WITH HOST GOVERNMENT OFFICIALS.
POSTS SHOULD SEEK HOST GOVERNMENT RESPONSES TO THE -
FOLLOWING QUESTIONS: (1) REALIZING THE DISSATISFACTION
WITH THE LACK OF PROGRESS EXPRESSED BY THE US DELEGATION
AND OTHERS AT THE PAST THREE IPG'S, WHICH IN TURN HAS
GENERATED THE PRESENT CRITICAL EXAMINATION, WHAT WOULD BE
THE REACTION OF THE HOST GOVERNMENT TO USG WITHDRAWAL
FROM THE IPG. IN ADDITION, POSTS SHOULD ASK IF THE HOST
GOVERNMENT WOULD SUPPORT SUCH A MOVE BY JOINING THE USG
IF IT IS DETERMINED THAT SUCH ACTION WERE NECESSARY; AND
(2) IF THE HOST GOVERNMENT FINDS A NEED TO CONTINUE
PARTICIPATING IN THE IPG, WHAT THE OBJECTIVES OF ITS
PARTICIPATION ARE, I.E., DOES IT CONTINUE TO FAVOR A MT
CONVENTION BASED ON PRIVATE LAW? POSTS SHOULD EXPLAIN
THAT THE ULTIMATE US OBJECTIVE IN NEGOTIATIONS WOULD BE
THE DEVELOPMENT OF A DRAFT CONVENTION LIMITED TO PRIVATE
LAW ISSUES. THE GROUP OF 77, HOWEVER, HAS PRESSED FOR A
CONVENTION THAT WOULD CONTAIN PUBLIC LAW PROVISIONS AND

REQUIRE MANDATORY RATHER THAN OPTIONAL APPLICATION OF ANY CONVENTION TO ALL MT OPERATORS. IF THESE BASIC DIFFERENCES CANNOT BE RESOLVED THE UTILITY OF CONTINUING TO WORK IN THE IPG TO DEVELOP A CONVENTION IS IN DOUBT. THE REPRESENTATION SHOULD BE INFORMAL AND LOW-KEYED. REQUEST ADDRESSEES REPORT RESULTS TO DEPARTMENT (EB/TRA/MA) WITH INFO TO GENEVA AND OECD PARIS. AFTER RECEIPT OF ADDRESSEE INPUTS, DEPARTMENT INTENDS TO THEN QUERY THE FOLLOWING GROUP OF 77 COUNTRIES FOR THE SAME INFORMATION: MEXICO, PERU, BRASIL, ARGENTINA, COLOMBIA, NIGERIA, GHANA, INDONESIA, AND MALAYSIA. THE DEPARTMENT IS PREPARED TO PROVIDE POSTS WITH ADDITIONAL BACKGROUND INFORMATION ON THE IPG IF NEEDED.

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2. THE PERSONS LISTED BELOW MAY BE HELPFUL AS POINTS OF CONTACT, SINCE THEY HAVE REPRESENTED THEIR GOVERNMENTS AT PREVIOUS IPG'S:

AUSTRALIA - W. G. UPTON, DEPT. OF TRANSPORT
DENMARK - J. BREDHOLT, MINISTRY OF COMMERCE
FRANCE - C. BATAULT, MINISTRY OF FOREIGN AFFAIRS
NETHERLANDS - W. W. BAKKE, MINISTRY OF TRANSPORT
U.K. - W. J. HALL, DEPARTMENT OF TRADE
FRG - G. MAUE, MINISTRY OF TRANSPORT
CANADA - K. BURBRIDGE, CANADIAN TRANSPORT COMMISSION
NORWAY - K. BRUZELIUS, MINISTRY OF JUSTICE
SWEDEN - B. BLOM, JUSTICE, COURT OF APPEALS

3. FOR TOKYO, BRUSSELS, HELSINKI: THE BELOW FROM THE PERMANENT MISSIONS IN GENEVA, HAVE REPRESENTED THE RESPECTIVE COUNTRIES AT RECENT IPG'S. POSTS, HOWEVER, SHOULD CONTACT OFFICIALS IN HOST GOVERNMENT CAPITALS FOR OPINIONS:

JAPAN - M. SEO
BELGIUM - J. M. POSWICK
FINLAND - G. CASTREN

4. FOR GENEVA: WE WOULD WELCOME ANY COMMENTS WHICH MISSION GENEVA MAY WISH TO PROVIDE ON THE CURRENT ATTITUDES OF PERMANENT MISSIONS TOWARD THE WORK OF THE IPG AND A MT CONVENTION.

5. FYI: THE PURPOSE OF THE IPG IS TO DRAFT A PRIVATE LAW CONVENTION WHICH WOULD ADDRESS SUCH BASIC COMMERCIAL MATTERS AS SHIPPING DOCUMENTATION, LIABILITY AND INSURANCE, AND THE LIKE AS THEY AFFECT TRANSPORTATION
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BY MULTIMODAL MEANS SUCH AS RAIL, ROAD, AND MARITIME. WHILE MULTIMODAL TRANSPORT COULD INCLUDE BREAK-BULK (NORMALLY PALLETIZED) SHIPMENTS, FOR THE MOST PART THE TRANSPORTATION VEHICLE WOULD BE A CONTAINER. THE PURPOSE OF ANY CONVENTION WOULD BE TO STANDARDIZE AND FACILITATE THE MULTIMODAL MOVEMENT. FOR EXAMPLE AND UNDER A CONVENTION, A SHIPMENT FROM ATLANTA TO FRANKFORT COULD BE UNDER A SINGLE BILL OF LADING AND A SINGLE INSURANCE REGIME. THIS IS NOW DONE WITH REGULARITY IN THE COMMERCIAL WORLD BUT INVOLVING MULTIPLE LIABILITY RULES AND COMPLEX DOCUMENTATION. TO DATE, THERE HAVE BEEN 4 IPG'S--OCT. 1973, 1 WEEK; NOV. 1974, 3 WEEKS; JAN. 1976, 2 WEEKS; JAN. 1977, 3 WEEKS; NOV. 1977, 2 WEEKS. THE RESULTS OF 11 WORKING WEEKS HAVE NOT BEEN ENCOURAGING. THE ONLY SIGNIFICANT DRAFTING ACCOMPLISHED HAS BEEN IN THE AREAS OF DOCUMENTATION AND SCOPE OF APPLICATION. WITHIN THESE AREAS, ANY SIGNIFICANT ARTICLES HAVE BEEN BRACKETED. ADMITTEDLY, THE SUBSTANTIVE MATTERS ARE BASICALLY LEGAL AND QUITE COMPLICATED IN SCOPE. HOWEVER, THE REPORT OF EACH DELEGATION HAS BEEN UNEQUIVOCAL ABOUT THE PAUCITY OF WORK PRODUCED TO DATE. GROUP B (OECD COUNTRIES) IS NOT IN GENERAL AGREEMENT THAT THERE IS A NEED FOR A CONVENTION; GROUP 77 IS FRAGMENTED; AND GROUPS B AND 77 SEEM TO CLASH ON EVERY SUBSTANTIVE ISSUE. THE CARRIER SEGMENT OF US INDUSTRY HAS CONSISTENTLY BELIEVED THAT NO PRIVATE LAW CONVENTION BENEFICIAL TO THEIR INTERESTS WOULD EMERGE FROM THE IPG. THIS ALSO APPEARS TO BE THE GENERAL VIEWPOINT OF SEVERAL USG AGENCIES (STATE, FMC, CUSTOMS, AND MARAD). RESPONSES RECEIVED AS A RESULT OF EMBASSY/MISSION INQUIRIES WILL BE

REPORTED AS PART OF A DEPARTMENT ACTION MEMORANDUM WHICH WILL BE CIRCULATED FOR APPROVAL OF INTERESTED GOVERNMENT AGENCIES WHEREIN THERE WILL BE 2 OPTIONS-- (A) WITHDRAW FROM THE 5TH IPG AND SEND ONLY AN OBSERVER; (B) CONTINUE TO PARTICIPATE IN THE IPG. AS A HEDGE - LIMITED OFFICIAL USE

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AGAINST THE BURNING OF BRIDGES, OPTION A WOULD CONTAIN 2 PROVISOS; THAT THE USG COULD DELAY ANY FINAL DECISION UNTIL AFTER DISCUSSION OF THE 5TH IPG AT A PROPOSED JUNE 14-16 MEETING, AMONG GROUP B COUNTRIES, WHICH COULD COINCIDE WITH APPROPRIATE OECD MEETINGS AND WHICH WILL BE HELD TO DISCUSS IPG MATTERS; ALSO IF THE USG FINDS THAT THE 5TH IPG MAY IN FACT PRODUCE RESULTS

BENEFICIAL TO THE US, THEN IT COULD AT THE LAST MINUTE
DECIDE TO PARTICIPATE. IN ANY EVENT, THE DEPARTMENT
BELIEVES IT IMPERATIVE THAT A SIGNAL NOW BE GIVEN TO IPG
PARTICIPANTS THAT THE USG IS NOT ONLY UNHAPPY WITH THE
IPG, BUT IS CRITICALLY EXAMINING ITS FUTURE PARTICIPATION.
WHILE THE USDEL HAS MADE ITS DISPLEASURE KNOWN AT THE
IPG'S, WE HOPE THAT A MORE CRITICAL AND CLOSER -
EXAMINATION CAN POSSIBLY BE MADE OF THE PROBLEM IN THIS
INTERIM PERIOD OUTSIDE THE UNCTAD FORUM. END FYI. VANCE

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